

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

G.D. SEARLE LLC and PFIZER ASIA PACIFIC  
PTE. LTD.,

Plaintiffs,

v.

LUPIN PHARMACEUTICALS, INC., TEVA  
PHARMACEUTICALS USA, INC., MYLAN  
PHARMACEUTICALS INC., WATSON  
LABORATORIES, INC., APOTEX INC., and  
APOTEX CORP.,

Defendants.

Civil Action No. 2:13-cv-0121-AWA-LRL

**MEMORANDUM IN SUPPORT OF DEFENDANTS' JOINT MOTION FOR A DEFERRED  
SCHEDULE FOR POST-JUDGMENT SUBMISSIONS**

Defendants Lupin Pharmaceuticals, Inc., Teva Pharmaceuticals USA, Inc., Mylan Pharmaceuticals Inc., Watson Laboratories, Inc., Apotex, Inc. and Apotex Corp. (collectively, "Defendants") file this memorandum in support of their Joint Motion for a Deferred Schedule for Post-Judgment Submissions ("Joint Motion"), which asks the Court for an Order setting an extended schedule for post-judgment submissions. In support of their Joint Motion, Defendants' state as follows:

Pursuant to Federal Rule of Civil Procedure 54(d), Local Civil Rule 54(D), and 28 U.S.C. § 1920, Defendants are required to submit bills of costs within eleven (11) days from the entry of judgment, unless such time is extended by order of the Court.

Additionally, Defendants are required to file any motion for attorney's fees pursuant to Federal Rule of Civil Procedure 54(d)(2), including a motion for a determination that this is an exceptional case pursuant to 35 U.S.C. § 285, or that Defendants are entitled to attorneys' fees and

costs pursuant to any other statute or under the Court's inherent authority, within fourteen (14) days from the entry of judgment, unless such time is extended by order of the Court.

Defendants seek an Order deferring the above-listed deadlines applicable to the post-judgment submissions until after the conclusion of all proceedings in this matter, including all appeals. The Defendants seek this extended schedule because it is likely that Plaintiffs will seek to appeal this Court's final judgment order. Deferring the deadlines for the above-referenced post-judgment submissions until after the conclusion of all proceedings in this matter, including all appeals, will conserve judicial resources and will be more efficient for the Court; it will also avoid unnecessary and/or premature filings as, at a minimum, Defendants' submissions will need to be updated after determination of an appeal. In that respect, Defendants propose that if an appeal is noted, the prevailing party(ies) be required to submit its requests for costs and/or attorneys' fees within thirty days after the decision on appeal is final and takes effect. In the event Plaintiffs do not notice an appeal from the Court's final judgment order, Defendants propose they be required to submit their bills of costs and any petitions for attorneys' fees within thirty (30) days after the date by which Plaintiffs' time to note an appeal expired.

Accordingly, the Defendants seek an Order that defers the timetable for submission of bills of costs pursuant to Federal Rule of Civil Procedure 54(d), Local Civil Rule 54(D), and 28 U.S.C. § 1920, and for any petitions for attorneys' fees pursuant to Federal Rule of Civil Procedure 54(d)(2), including a motion for a determination that this is an exceptional case pursuant to 35 U.S.C. § 285, until after the conclusion of all proceedings in this matter, including all appeals.

The Court has struck all previously scheduled dates, including the trial, so the requested extension will not result in an undue delay of any presently scheduled proceedings.

Dated: March 27, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 27, 2014, a true and correct copy of the foregoing was filed electronically using the CM/ECF system. As such, this document was served on all counsel who have consented to electronic service, including as follows:

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